

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

Exceller Software Corp, *et al.*,

Plaintiff,

v.

Case No. 1:17cv277

Jeffrey Dine, *et al.*,

Judge Michael R. Barrett

Defendants.

**ORDER**

This matter is before the Court on the Report and Recommendation filed by the Magistrate Judge on January 23, 2018 (Doc. 23).

Proper notice has been given to the parties under 28 U.S.C. § 636(b)(1)(C), including notice that the parties would waive further appeal if they failed to file objections to the Report and Recommendation in a timely manner. *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). No objections to the Magistrate Judge's Report and Recommendation have been filed.

Accordingly, it is **ORDERED** that the Report and Recommendation (Doc. 23) of the Magistrate Judge is hereby **ADOPTED**. Consistent with the recommendation by the Magistrate Judge, Defendants' Motion to Dismiss is **GRANTED** on the basis the Court lacks subject matter jurisdiction.

**IT IS SO ORDERED.**

s/Michael R. Barrett

Michael R. Barrett  
United States District Judge